

SHRI ASADUDDIN OWAISI (HYDERABAD): Sir, I am on a point of order.

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SHRI ASADUDDIN OWASI: Sir, my point of order satisfies Rule 376 sub-Sections (1) and (2). What is that?

Now, who has made this determination? Article 96 clearly says that the Speaker cannot preside over here. My question to the House is this. Who has made the determination? It is because the Supreme Court in Nabam Rebia case has clearly said that the Speaker against whom a notice of removal has been given, cannot exercise adjudicatory powers in proceedings connected with the removal. So, who has made this determination? The House should know.

It lays down the hierarchy as laid down by Dr. Babasaheb Ambedkar. First, the Deputy Speaker - but you do not have a Deputy Speaker. If the Deputy Speaker is also absent, then such a person is determined by the Rules of Procedure of the House. Third, if no such person is present, then such other person is determined by the House.

Sir, you are sitting over there. I also challenge it because you have read the ?Nabam Rebia case (2016) - a Constitution Bench case?. Once a notice of removal has been given against the Speaker, the Speaker cannot exercise adjudicatory or discretionary powers that have a bearing on those proceedings. The Speaker has a direct personal interest in the outcome, and that interest disqualifies him from acts that shape these proceedings.

Take the judgment of 'Kihoto Hollohan v. Zachillhu'. The hon. Supreme Court reinforced that constitutional functionaries must observe natural justice. You have been appointed by the Speaker. So, I am of the opinion that you cannot sit over there and take up these proceedings.

The assent of the House should be taken. You have the majority. You are quoting Article 95 and Article 96, and also Rule 10. But Rule 10 cannot overtake an Article of the Constitution. That is why, this Government has created a constitutional mess.

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SHRI ASADUDDIN OWAISI: Let me complete, Sir. At the time of last three No Confidence Motions, there were Deputy Speakers. That is why, I say the proceedings are constitutionally irregular.

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HON. CHAIRPERSON: I have gone through Article 94 and Article 95. I have already seen the powers of the Deputy Speaker and other persons to perform the duties of the office or to act as the Speaker. If you go through them, I think your answer is completely there.

[illegible]

§ 95(2) of the Rules of Procedure of the House of Representatives provides that, in the absence of the Speaker and the Deputy Speaker, the House may determine by a majority vote of its members the person who shall preside over the House during the absence of the Speaker and the Deputy Speaker. The House may also determine by a majority vote of its members the person who shall preside over the House during the absence of the Speaker and the Deputy Speaker.

95(2)

SHRI K.C. VENUGOPAL: A very pertinent point relating to the Constitution has been raised here. When a Motion for the removal of the Speaker is taken up, it is very clear in Article 96 that the Speaker cannot sit in the Chair. The actions of the Speaker also cannot be admitted at that point of time.

You have been appointed by the Speaker of the Lok Sabha. You are sitting there as a member of the Panel of Chairpersons appointed by the Speaker of the Lok Sabha. This is not at all our fault. For the last seven years, the Government has not been ready to appoint a Deputy Speaker.

Sir, I will read Article 93 of the Indian Constitution.

?The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be.?

This is the situation. Immediately the Speaker and the Deputy Speaker have to be elected. For the last seven years, you have not elected the Deputy Speaker. You have created a constitutional vacuum. This thing is very clear in Article 96. The House has to select a person to sit in the Chair.

[illegible]

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PROF. SOUGATA RAY (DUM DUM): Please read Article 95(2) with me.

?During the absence of the Speaker from any sitting of the House of the People, the Deputy Speaker or if he is also absent, such person as may be determined by the Rules of the Procedure of the House or if no such person is present, such other person as may be determined by the House, shall act as Speaker.?

So, the main question is that Speaker is not there. Deputy Speaker has not been elected. So, such other person as may be determined by the Rules of Procedure of the House must be there. Has such other person been determined by the Rules of Procedure of the House? You are just going and sitting there. But it has not been decided or finalized by the House. Let there be a Motion moved by the Parliamentary Affairs Minister that Jagdambika Pal Ji

will be there. Otherwise you cannot sit.

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?During the absence of the Speaker from any sitting of the House of the People the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the House, or, if no such person is present, such other person as may be determined by the House, shall act as Speaker. ?

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***m10HON. CHAIRPERSON:** A point of order was raised by Owaisi Saheb, K.C. Venugopal Ji, Sougata Ray Ji. Regarding this point of

order, admitting a Motion for removal of hon. Speaker does not make the office of Speaker vacant. Now, it is clear that the office of Speaker is not vacant because still the matter is only under consideration. The office of the Speaker will be vacant only after the adoption of the Resolution. This is no point of order. There is no merit in the point of order. Only after adoption, if by majority it is voted, it can be said the office is vacant. Otherwise, you cannot say that office of Speaker is vacant.

? (interruptions)

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